



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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FESIA A. DAVENPORT  
Chief Executive Officer

October 5, 2021

To: Supervisor Hilda L. Solis, Chair  
Supervisor Holly J. Mitchell  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

From: Fesia A. Davenport  
Chief Executive Officer

Board of Supervisors  
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Second District

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Third District

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Fifth District

## **SUSTAINING JAIL-BASED DIVERSION (ITEM NO. 33, AGENDA OF JUNE 22, 2021)**

On June 22, 2021, the Board of Supervisors (Board) directed the Chief Executive Office (CEO) to provide an update in writing in 60 days, and every 90 days thereafter, on efforts to identify a sustainability plan with ongoing funding for the Office of Diversion and Re-entry's (ODR's) jail-based diversion work, as directed by the Board in May 2019 and July 2020, including updates on the options laid out in the CEO's November 17, 2020 report back to the Board on ODR's budget, which includes identifying additional funding for ODR through ongoing, bonus, or unspent reserve Assembly Bill (AB) 109, Senate Bill 678 (SB 678), Proposition 47, Mental Health Services Act, cost savings from reducing incarceration levels of youth and adults in the County of Los Angeles (County), and other funding streams and strategies.

### **OFFICE OF DIVERSION AND RE-ENTRY'S CURRENT STRUCTURAL DEFICIT**

As previously reported, ODR has an annual structural deficit of more than \$100 million. ODR has one-time reserve funding that is expected to sustain existing operations through Fiscal Year (FY) 2021-22 and will be fully exhausted during FY 2022-23. Due to this structural deficit, CEO has not recommended expansion of services until the existing deficit is fully resolved. This report provides an update to identify ongoing funding for ODR's jail-based diversion work, as well as the broader work performed by ODR, to address the ongoing budget deficit and efforts to secure the long-term sustainability of ODR.

**SUMMARY OF CEO's FY 2021-22 SUPPLEMENTAL CHANGES BUDGET PHASE FUNDING RECOMMENDATIONS**

As part of the FY 2021-22 Supplemental Changes Budget phase, the CEO is recommending funding for ODR from a variety of sources, as follows:

- Ongoing funding of more than \$51.0 million, comprised of net County cost (NCC) and AB 109; and
- One-time funding of \$18.0 million, comprised of NCC, AB 109, SB 678 and other revenues.

Primarily as a result of the ongoing funding recommendations included in the FY 2021-22 Supplemental Changes Budget phase, the existing structural deficit mentioned above will be reduced by \$58 million, reducing the new annual, ongoing deficit from \$100.0 million to approximately \$42.0 million. Additionally, the budget recommendations for one-time funding will allow ODR to maximize the use of one-time dollars and postpone the need to access funding in the ODR reserve. This infusion of funding will help to delay the depletion of available resources ODR has until a long-term solution to the structural deficit is identified. More specifically, upon Board approval of these funding recommendations, ODR will have sufficient funding to sustain existing operations through FY 2023-24, with projections that ODR's reserve account will be fully exhausted during FY 2024-25. CEO is embarking upon a multi-year plan to reduce the structural deficit; however, while this is being undertaken, CEO continues to recommend that ODR service levels remain static until ODR is fully funded.

**OTHER FUNDING UPDATES**

**Care First and Community Investment (CFCI) (Formerly Known as Measure J)**

On November 3, 2020, Los Angeles County voters approved Measure J to invest in social services and jail diversion programs. On November 10, 2020, the Board directed the creation of a 17-member Measure J Advisory Committee (Advisory Committee) to establish a transparent process for making recommendations on the allocation of Measure J funding. The Advisory Committee submitted their recommendations to the CEO on June 4, 2021.

On June 17, 2021, the Superior Court (Court) ruled that Measure J is constitutionally invalid. The Court determined that Measure J interferes with the Board's authority under State law to establish the County's budget. In its decision, however, the Court made it clear that "this case does not involve any evaluation of the policy choices embedded in Measure J. Nor does the court's resolution of this case prohibit in any way the current

Board of Supervisors or any future Board, from adopting a budget wholly in line with Measure J's provisions."

On August 10, 2021, the Board approved the programs envisioned under Measure J with the adoption of the CFCI spending plan. The FY 2021-22 Supplemental Changes Budget phase includes CEO recommendations to appropriate funding into the newly created CFCI budget unit. Upon the Board's approval of the budget, departments will be able to take the steps needed to implement programming aligned with the Care First, Jails Last vision.

ODR submitted 29 funding requests to the Advisory Committee for consideration. Specific to ODR, these requests included funding for the ODR housing program, harm reduction and naloxone distribution, youth intervention work and re-entry services, to name a few. While some ODR programs will be funded in FY 2021-22 as part of Phase 1 of the CFCI Board-approved plan, CFCI funding will primarily be allocated for new or expanded programming beyond ODR's existing footprint and therefore, CFCI funding for ODR programs would present no material improvement to ODR's structural deficit.

#### AB 109

In a September 2015 motion, the Board directed the CEO to allocate 50 percent of all new AB 109 Community Corrections Subaccount funding received in excess of the prior-year budget to ODR. In accordance with the Board's directive, CEO is recommending AB 109 funding as part of the FY 2021-22 Supplemental Changes Budget phase, as mentioned above.

#### SB 678

Also referenced in the September 2015 motion, the Board directed the CEO to allocate 50 percent of SB 678 funds that have accumulated in the Community Corrections Performance Incentives special revenue fund and 50 percent of all future SB 678 funds that are received by the County beginning in FY 2015-16. ODR is receiving this level of funding, which is accounted for in ODR's budget and SB 678's multi-year spending plan. However, this is a one-time funding source. Annual ongoing SB 678 funding is fully programmed for Probation's Coordinated Optimal Rehabilitative Efforts adult program, as well as staffing costs, as approved by the Board. Unspent funds that remain in the special revenue fund at year-end will be available for future programming needs on a one-time basis for projects and services. CEO is recommending allocation of unspent FY 2020-21 SB 678 funding as part of the FY 2021-22 Supplemental Changes Budget phase, as mentioned above.

Cost Savings from Reducing Incarceration Levels of Youth and Adults in Los Angeles County

In a June 2020 motion, the Board directed the CEO to conduct a cost savings analysis of COVID-19's impact on the jail system and with an ongoing reduced jail population. In July 2020, the Board further directed the CEO, with the Auditor-Controller (A-C) as the lead, to conduct an assessment of the cost savings related to closing Men's Central Jail. The A-C's consultant, the JFA Institute, has not yet issued its report. Once the report is issued, the report will be evaluated to determine possible costs savings that may be re-purposed for use by ODR. This will be addressed in future reports.

In a November 2020 motion, the Board adopted the core values of the "Youth Justice Reimagined" report and committed to transitioning the County's youth juvenile justice system to a youth-centered care-first model by 2025. The underlying funding mechanism for the transformation of the youth justice system is to transfer the Probation Juvenile Services' budget incrementally to a new Department of Youth Development as Probation operations wind down. On July 13, 2021, the Board directed the CEO, the Chief Probation Officer (CPO), the Director of the Office of Diversion and Reentry through Youth Diversion and Development (YDD), the Director of Human Resources, and County Counsel, to respond to multiple directives related to the implementation of Youth Justice Reimagined. The Probation Department recently issued a response on August 24, 2021 which contained a comprehensive list of juvenile funding streams and the CEO's response is underway and will detail a staffing analysis methodology for Probation positions.

**MAXIMIZATION OF THE USE OF STATE AND FEDERAL FUNDING**

County Counsel continues discussions with the Departments of Health Services (DHS) and Mental Health to develop a Memorandum of Agreement addressing any ODR funding for mental health services. Any such funding toward specialty mental health services would partially mitigate the structural deficit by offsetting existing costs with State and federal funding by allowing the County to draw down additional Medi-Cal revenue. Currently, this is not being done and therefore, ODR is primarily funded with unleveraged local resources. The impact of any additional funding resulting from this change on ODR's deficit is still being evaluated as housing represents the majority of ODR's costs.

DHS continues to work with the State to identify additional options that may offset ODR costs. As previously reported, these options include, but are not limited to, pursuing funding through the State-led California Advancing and Innovating Medi-Cal (CalAIM) Project. Although CalAIM has been delayed due to the pandemic, the State is currently targeting January 2022 as the implementation date, which presents an opportunity to partially offset certain costs. DHS reports that while planning is currently underway, there

is uncertainty around whether certain ODR services might be eligible for reimbursement under CalAIM. DHS has completed preliminary mapping of ODR programs to CalAIM and they plan to meet with the health plans in the coming months. Additional time is needed to fully understand the benefits that CalAIM may present for ODR. DHS is working closely with the State and their health plan partners to advocate for policies that maximize the opportunity to offset ODR costs. However, since housing is not reimbursable under CalAIM, any possible benefits resulting from the implementation of CalAIM would have minimal impact to offset the structural deficit, since, as mentioned above, housing represents the majority of ODR's costs. DHS indicates Medi-Cal funding may not present a material benefit for ODR wrap-around services, as was anticipated initially. More information about DHS' efforts to pursue CalAIM to sustain and/or expand diversion related services, including existing beds, can be found in the attached, which is a DHS-issued report back in response to the subject motion, developed in partnership with various County departments.

### **LEGISLATIVE UPDATES**

On June 28, 2021, Governor Gavin Newsom signed into law AB 128 (Chapter 21, Statutes of 2021), the Budget Act of 2021, which includes the County-supported \$2.2 billion for the Behavioral Health Continuum Infrastructure program. This program provides competitive grants to counties, available over three years, to acquire and rehabilitate real estate assets to expand the community continuum of behavioral health treatment resources. Grants will be used to support:

- Treatment Facilities (e.g., crisis intervention and stabilization, crisis residential, residential treatment, day rehabilitation, day treatment intensive or partial hospitalization with housing supports); and
- Housing Facilities (e.g., adult and senior care facilities, room and board with intensive outpatient services, and peer respite and shared housing).

Of the total amount, at least \$250 million in additional one-time State General Funds will be allocated for competitive grants for increased infrastructure targeted to justice-involved individuals with a serious mental illness who are deemed incompetent to stand trial (IST). This program is intended to provide community-based alternatives to incarceration or alternatives to unnecessary State hospitalization.

The State Budget Act also includes \$32.8 million for FY 2021-22 for the Community-Based Restoration (CBR) Program to provide competency restoration service for IST patients in community mental health treatment settings. This funding is intended to expand the current County CBR program and establish new programs in 17 additional counties. The State Budget Act also reflects that CBR funding is provided

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over the next several years, as follows: \$59.8 million in FY 2022-23, \$56.2 million in FY 2023-24, and \$54.7 million in FY 2024-25, and ongoing thereafter.

According to the California Department of State Hospitals, this funding will provide 300 beds to the County. It should be noted that 200 of these beds were already approved by the Board for programming in the County; however, an additional 100 beds are currently under consideration for expansion. The CBR Program mentioned above is distinct from the Community Care Demonstration for Felony IST that was included in the Governor's January budget and removed from the May Revision (and not included in the State Budget Act). The Community Care Demonstration proposal would have realigned all Felony IST patients to three counties, including the County, through a demonstration project.

While the two funding opportunities mentioned above will not be made available directly to ODR as funding to address the structural deficit, they do provide possible opportunities to build out system of care infrastructure on a limited-time basis and provide Board-approved "Care First, Jails Last" services funded by the State.

### **NEXT STEPS**

ODR and CEO will continue to work together to identify and implement ongoing funding solutions. Additionally, CEO will provide updates to these funding recommendations and further recommendations on a long-term funding plan in future budget phases. This will allow recommendations to be made within the context of the overall budget and numerous competing funding priorities and requests.

Should you have any questions concerning this matter, please contact me or Mason Matthews at (213) 974-2395 or [mmatthews@ceo.lacounty.gov](mailto:mmatthews@ceo.lacounty.gov).

FAD:JMN:MM:MM  
EB:bjs

### **Attachment**

c: Executive Office, Board of Supervisors  
County Counsel  
Heath Services  
Mental Health  
Office of Diversion and Re-Entry



ATTACHMENT

July 22, 2021

**Los Angeles County  
Board of Supervisors**

**Hilda L. Solis**  
First District


**Holly J. Mitchell**  
Second District

**Sheila Kuehl**  
Third District

**Janice Hahn**  
Fourth District

**Kathryn Barger**  
Fifth District

TO: Supervisor Hilda L. Solis, Chair  
Supervisor Holly J. Mitchell  
Supervisor Sheila Kuehl  
Supervisor Janice Hahn  
Supervisor Kathryn Barger

FROM: Christina R. Ghaly, M.D.   
Director

SUBJECT: **REPORT ON SUSTAINING JAIL-BASED  
DIVERSION (ITEM # 33 FROM THE JUNE 22, 2021  
BOARD AGENDA)**

**Christina R. Ghaly, M.D.**  
Director

**Hal F. Yee, Jr., M.D., Ph.D.**  
Chief Deputy Director, Clinical Affairs

**Nina J. Park, M.D.**  
Chief Deputy Director, Population Health

**Elizabeth M. Jacobi, J.D.**  
Administrative Deputy

On June 22, 2021, the Board of Supervisors (Board) approved a motion titled "Sustaining Jail-Based Diversion." This motion directed the Director of the Department of Health Services (DHS) to report back in 45 days with a preliminary analysis of the feasibility of using California Advancing and Innovating Medi-Cal (CalAIM) to sustain and eventually expand diversion related services, including the Office of Diversion and Reentry's (ODR's) existing beds.

On July 14, 2021, DHS/ODR met with representatives of the Chief Executive Office (CEO), Substance Abuse Prevention and Control, Department of Mental Health (DMH), County Counsel, Probation, Los Angeles Regional Reentry Partnership, American Civil Liberties Union, Public Defender (PD) and the Alternate Public Defender (APD), (the District Attorney (DA) and Alternatives To Incarceration (ATI) representatives were not in attendance) to discuss and develop the following responses regarding CalAIM and the feasibility of using CalAIM funding to support diversion services in Los Angeles County (LA County).

CalAIM is a statewide effort to streamline services for Medi-Cal beneficiaries through managed care plans, including services that have previously been supported through programs like Whole Person Care (WPC). Two core programs will replace WPC and Health Homes Programs: (1) Enhanced Care Management (ECM), and (2) In Lieu of Services (ILOS).

1. ECM will be a care coordination benefit for the highest need cases that launches for most eligible populations on January 1, 2022, with additional populations related to nursing home

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use that will be eligible January 2023. The state has created narrowly defined eligible populations and will pay a modest increase to the health plans to cover ECM services, with plans being responsible for managing the amount of services available given a finite amount of funds. However, ECM is an entitlement; plans must cover services for all those who are eligible. Although Intensive Case Management Services (ICMS) offered by ODR address many of the requirements of ECM, additional resources would be required, mostly in areas of physical health care management, to meet managed care plan ECM requirements.

2. ILOS are a menu of 14 different services that provide social supports such as housing navigation, tenancy sustaining services, housing deposits, recuperative care, and components of enhanced residential care for persons with a disability who have support needs around their activities of daily living, to name a few. Most of these services are already offered through ODR Housing. Unlike ECM, ILOS services are voluntary for the managed care plans, and health plans will not receive any substantial ongoing payment to help cover the costs of these services because, in concept, these services are supposed to be "in lieu of" higher cost services that the plan is already paid to cover – namely emergency room visits and inpatient hospital stays.

In addition, the state will offer health plans incentive payments for 2 ½ years, starting January 2022, to help roll out ECM and ILOS programs. All of the above payments are supported with state general fund and federal matching funds.

While in theory the above changes are meant to create sustainable funding pathways for Medi-Cal care management and social supports, in practice, there is significant uncertainty about the likelihood of these programs, on their own, to sustain existing ODR services. Uncertainties include: which people will be eligible to receive benefits, the adequacy of state budget allocations for these services, the willingness or ability of plans to pay rates to DHS that cover actual costs for ECM and ILOS services, and the scope of services for which plans are willing to pay (i.e. how long will someone be eligible to receive ECM or ILOS services for, and are the covered services as robust as what ODR offers in its programs?). Limitations in any of these categories could leave gaps in funding, and current indications from state officials and health plans conversations indicate that there will be many limitations.

Because this managed care framework for providing care coordination and social supports is untested, it will likely take 1-2 years before we understand how the various state, plan, and provider stakeholders will respond to this new opportunity, and therefore how sustainable these funding sources may be. Additional funding through the Medicaid 1115 waiver will likely be needed to sustain existing programs in the short term as this uncertainty plays out.

- a. **Available local or state funds that could be used as a match to leverage available federal Medicaid funds**



The state is financing the ECM, ILOS, and incentive components of CalAIM. Additional federal funds that may become available through the state's proposed renewal of the Medicaid 1115 waiver, under a program called Providing Access and Transforming Health (PATH). A portion of these PATH funds would be available directly to counties to help manage the transition from a county-based structure under WPC, to a managed-care centric structure, including certain pre-release health services. If approved, it is possible that a portion of the funds would need to be matched with local county financing. ODR would use existing sources of local funds to match payments under PATH.

**b. Available federal, state, and local funds that could be used to cover housing related supports (like rent subsidies or acquisition and construction of housing) and other diversion-related services ineligible for CalAIM funding**

ODR currently benefits from the ability to fund housing through AB109 and SB678, while continuing to seek opportunities for long term sustainable housing resources. Given the structure of housing and homeless services within LA County, most of the federal, state, and local funding either passes through the Los Angeles Homeless Services Authority (LAHSA) or is distributed via LAHSA by way of the LA County Coordinated Entry System (CES). This includes housing funding from sources such as the U.S. Department of Housing and Urban Development (HUD) Continuum of Care program, the state Emergency Solutions Grant (ESG), No Place Like Home, Housing for Healthy California, and Measure H.

The nature of ODR being a court ordered program, and there being a requirement that housing is provided for all clients while enrolled in the program, creates unique challenges to relying on CES for Permanent Supportive Housing (PSH) subsidies. Timing is key in order to initiate the PSH housing search process after the client has clinically stabilized and at a time when all parties are in agreement. Additionally, though ODR serves some of the most high need clients, their CES assessment frequently doesn't reflect their level of need. The result is that ODR clients are rarely prioritized for PSH through CES, or at the ideal time.

ODR is actively undertaking efforts to replace existing locally funded housing subsidies with federal resources, such as through the LA County Development Authority (LACDA) Housing Choice Voucher (HVC) program, and through the Emergency Housing Voucher (EHV) program via the American Rescue Plan.

Since Fiscal Year 19-20, ODR has been partnering with the LA County DMH and accessing state Mental Health Services Act (MHSA) funding to provide rental subsidies for ODR clients who are also served by DMH. Under this

program, known as Housing for Mental Health, ODR receives an annual MHSA funding allocation.

In regard to capital expenses, acquisition or construction, ODR has been able to connect with affordable housing developers to create new housing projects without incurring capital costs. Many of these projects rely on other public funding sources for capital expenses, such as LA City's Proposition HHH. Provided funding for ongoing subsidies, unit acquisition has not thus far been a barrier.

Other diversion services, such as the court-intervention itself which consists of requesting the conditional release of clients, determining clinical eligibility, evaluating and treating clients in court and working actively during the hearing with justice partners are ineligible for CalAIM funding, however, these services are currently funded by various state and local funds, including, AB109, Net County Cost (NCC), ODR Reserve, SB 678, Affordable Housing Trust and MHSA.

Beginning in 2022, two additional sources of funding for housing-related activities may become available through Medi-Cal managed care plans according to the state's proposed Home and Community-Based Services Spending Plan, which has been submitted to CMS for approval:

- First, the Department of Health Care Services (DHCS) is proposing a one-time investment of \$1.3B statewide, via Medi-Cal managed care plans, for a Housing and Homelessness Incentive Program. The details of this program are still under development, and would require federal approval, but if approved, could be an important source of rental and/or capital funding, as well as an option to fill gaps in services in the transition from WPC to CalAIM ECM and ILOS. DHS is in regular contact with DHCS, LAHSA, and the Medi-Cal plans to be prepared for this possible funding stream.
- Second, the Spending Plan proposes a Community Based Residential Continuum Pilot for Vulnerable, Aging and Disabled Populations, for \$298M statewide. As proposed, for prison/jail/juvenile justice re-entry and diversion populations, the pilot would establish interim housing and board and care settings where medical, behavioral and social services are available on-site. Services would include peer support, job training preparation, employment services, and education linkage. Funding may also support housing interventions to ensure placements into permanent housing upon exit. These interventions may include connection to affordable housing, rapid rehousing, permanent supportive housing as well as homeownership support as appropriate. Participants may also receive an economic stimulus payment alongside employment services to support the transition after reentry into the community.

**c. Opportunities to get Medicaid financing for services rendered prior to the release of an incarcerated individual**

DHCS is seeking federal approval for Medicaid coverage of certain pre-release services starting in 2023. In the 90 days period prior to release from a State prison, county jail, and/or youth correctional facility, DHCS has proposed that certain Medi-Cal enrollee inmates be eligible to receive ECM or care coordination, and community-based physical and behavioral health clinical consultation services provided via telehealth or, optionally, in-person as needed. In addition, services would include a 30-day supply of medication, including Medication Assisted Treatment (MAT), and Durable Medical Equipment (DME) for use post-release into the community. In addition, DHCS has proposed that a certain amount of funding in the waiver would be made available in 2022, via PATH, to support infrastructure build out to allow for coverage of pre-release services, as well as to maintain and build on current WPC Pilot pre-release and post-release services as a bridge to implementation of the full suite of CalAIM justice-involved initiatives in 2023. These programs are all subject to the Centers for Medicare and Medicaid Services approval, with total funding amounts and pathways still to be determined.

**d. Opportunities to engage trusted stakeholders, like Community Health Workers (CHWs) and public defenders, to ensure clients successfully engage with the medical and behavioral health system**

DHS has many relationships with trusted stakeholders to begin educating the community about medical and behavioral health resources and to ensure clients successfully engage with county health systems. These stakeholders include community provider networks, community-based stakeholder/advocacy groups such as the Los Angeles Regional Reentry Partnership (LARRP), philanthropy including The California Endowment, California Wellness Foundation and Liberty Hill Foundation, faith-based groups, hospital/clinical network of behavioral health centers, as well as LA County workgroups including the ATI Office and its "community cabinet", the Jail Population Review Council, Measure J Advisory Body, Gender Responsive Advisory Council, and Public Safety Realignment Team, among others.

Stakeholders/DHS can implement a "train the trainer model" to educate stakeholders about how to access newly available resources, including education about the concept of "health homes" and their importance in providing effective long-term care to patients who have historically been disconnected from long-term comprehensive behavioral health and medical care.

DHS can leverage relationships with the Public Defender's social worker team, as well as the judiciary, DA, LA City Attorney and other city prosecutors through the LA County Prosecutors' Association, and the APD to explain the new models

of care and how to access available resources for their clients/defendants. DHS can also deploy its CHWs to carry these messages to community members and advocates at the neighborhood level, and inside the jail through in-reach services and connections to Correctional Health Services' Care Transitions.

**e. Opportunities for community engagement with local Medi-Cal managed care plans to support inclusion of potential services**

Through its Housing for Health division, DHS partners with LA Care to provide permanent supportive housing through two initiatives. Starting in 2017, LA Care committed \$20 million over five years to fund ongoing rental subsidies for 300 high acuity homeless LA Care members. These subsidies are provided through the Flexible Housing Subsidy Pool (FHSP). Managed by DHS, the FHSP provides flexible rental subsidies to secure an apartment, either in the community or in a project-based setting. Some LA Care clients receive placement in Enriched Residential Care programs, such as board and care facilities. All subsidies are paired with ICMS provided by local community organizations. The FHSP is administered by non-profit partner Brilliant Corners, who engages with landlords to secure units and negotiate individual client leases, issues rental subsidy payments directly to landlords, coordinates with ICMS, and provides tenancy and other supportive services for clients. The second LA Care program provides \$7.3 million over five years to fund ICMS for 253 homeless LA Care members who are high-cost health users. This program complements a State grant which provides FHSP subsidies for this population, predominantly in project-based settings.

DHS is in ongoing discussion with local Medi-Cal managed care plans regarding the opportunities to fund care management and housing services via the new ECM, ILOS, and incentive programs structures.

If you have any questions, you may contact me or your staff may contact Peter Espinoza, Director of ODR, at [PEspinoza2@dhs.lacounty.gov](mailto:PEspinoza2@dhs.lacounty.gov).

CRG:mm